

111TH CONGRESS  
1ST SESSION

# H. R. 2680

To amend the Social Security Act to provide for payment parity for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under the Medicaid Program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 2009

Ms. BORDALLO (for herself, Mr. SERRANO, Mr. FALEOMAVEGA, Mrs. CHRISTENSEN, Mr. PIERLUISI, and Mr. SABLAN) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Social Security Act to provide for payment parity for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under the Medicaid Program, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Territorial Health Par-  
5       ity Act of 2009”.

1 **SEC. 2. MEDICAID PAYMENT PARITY FOR THE TERRI-**  
 2 **TORIES.**

3 (a) ELIMINATION OF FUNDING LIMITATIONS FOR  
 4 PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE NORTH-  
 5 ERN MARIANA ISLANDS, AND AMERICAN SAMOA.—

6 (1) IN GENERAL.—Section 1108 of the Social  
 7 Security Act (42 U.S.C. 1308) is amended—

8 (A) in subsection (f), in the matter before  
 9 paragraph (1), by striking “subsection (g)” and  
 10 inserting “subsections (g) and (h)”;

11 (B) in subsection (g)(2), in the matter be-  
 12 fore subparagraph (A), by inserting “and sub-  
 13 section (h)” after “paragraph (3)”; and

14 (C) by adding at the end the following new  
 15 subsection:

16 “(h) SUNSET OF FUNDING LIMITATIONS FOR PUER-  
 17 TO RICO, THE VIRGIN ISLANDS, GUAM, THE NORTHERN  
 18 MARIANA ISLANDS, AND AMERICAN SAMOA.—Subsections  
 19 (f) and (g) shall not apply to Puerto Rico, the Virgin Is-  
 20 lands, Guam, the Northern Mariana Islands, and Amer-  
 21 ican Samoa for any fiscal year after fiscal year 2009.”.

22 (2) CONFORMING AMENDMENT.—Section  
 23 1903(u) of such Act (42 U.S.C. 1396c(u)) is amend-  
 24 ed by striking paragraph (4).

1           (3) EFFECTIVE DATE.—The amendments made  
2       by this subsection shall apply beginning with fiscal  
3       year 2010.

4       (b) PARITY IN FMAP.—

5           (1) IN GENERAL.—Section 1905(b)(2) of such  
6       Act (42 U.S.C. 1396d(b)(2)) is amended by insert-  
7       ing after “50 per centum” the following: “(except  
8       that, beginning with fiscal year 2012, the Federal  
9       medical assistance percentage for Puerto Rico, the  
10      Virgin Islands, Guam, the Northern Mariana Is-  
11      lands, and American Samoa shall be the Federal  
12      medical assistance percentage determined by the  
13      Secretary in consultation (for the Virgin Islands,  
14      Guam, the Northern Mariana Islands, and American  
15      Samoa) with the Secretary of the Interior)”.

16          (2) 2-FISCAL-YEAR TRANSITION.—Notwith-  
17      standing any other provision of law, during fiscal  
18      years 2010 and 2011, the Federal medical assist-  
19      ance percentage established under section 1905(b) of  
20      the Social Security Act (42 U.S.C. 1396d(b)) for  
21      Puerto Rico, the Virgin Islands, Guam, the North-  
22      ern Mariana Islands, and American Samoa shall be  
23      the highest such Federal medical assistance percent-  
24      age applicable to any of the 50 States or the District  
25      of Columbia for the fiscal year involved, taking into

1 account the application of subsections (a) and (b)(1)  
2 of 5001 of division B of the American Recovery and  
3 Reinvestment Act of 2009 (Public Law 111–5) to  
4 such States and District for calendar quarters dur-  
5 ing such fiscal years for which such subsections  
6 apply respectively.

7 (3) PER CAPITA INCOME DATA.—

8 (A) REPORT TO CONGRESS.—Not later  
9 than October 1, 2010, the Secretary of Health  
10 and Human Services shall submit to Congress  
11 a report that describes the per capita income  
12 data used to promulgate the Federal medical  
13 assistance percentage in the territories and how  
14 such data differ from the per capita income  
15 data used to promulgate Federal medical assist-  
16 ance percentages for the 50 States and the Dis-  
17 trict of Columbia. The report should include  
18 recommendations on how the Federal medical  
19 assistance percentages can be calculated for the  
20 territories to ensure parity with the 50 States  
21 and the District of Columbia.

22 (B) APPLICATION.—Section 1101(a)(8)(B)  
23 of the Social Security Act (42 U.S.C.  
24 1308(a)(8)(B)) is amended—

(i) by striking “(other than Puerto Rico, the Virgin Islands, and Guam)” and inserting “(including Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa)”; and

(ii) by inserting “(or, if such satisfactory data are not available in the case of the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa, satisfactory data available from the Department of the Interior for the same period, or if such satisfactory data are not available in the case of Puerto Rico, satisfactory data available from the Government of the Commonwealth of Puerto Rico for the same period)” after “Department of Commerce”.

(4) RELATION TO AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.—For any period and territory in which the provisions of this subsection apply to a territory, the provisions of section 5001(b)(2) of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) shall not apply (except as otherwise specifically provided in paragraph (2)).

1 **SEC. 3. CLARIFICATION OF MEDICAID COVERAGE FOR CITI-**  
2 **ZENS OF FREELY ASSOCIATED STATES.**

3 (a) IN GENERAL.—Section 402(b)(2) of the Personal  
4 Responsibility and Work Opportunity Reconciliation Act  
5 of 1996 (8 U.S.C. 1612(b)(2)) is amended by adding at  
6 the end the following:

7 “(G) MEDICAID EXCEPTION FOR CITIZENS  
8 OF FREELY ASSOCIATED STATES.—With respect  
9 to eligibility for benefits for the program de-  
10 fined in paragraph (3)(C) (relating to the Med-  
11 icaid program), paragraph (1) shall not apply  
12 to any individual who lawfully resides in the  
13 United States (including territories and posses-  
14 sions of the United States) in accordance with  
15 the Compacts of Free Association between the  
16 Government of the United States and the Gov-  
17 ernments of the Federated States of Micro-  
18 nesia, the Republic of the Marshall Islands, and  
19 the Republic of Palau.”.

20 (b) CONFORMING DEFINITION OF QUALIFIED  
21 ALIEN.—Section 431(b) of such Act (8 U.S.C. 1641(b))  
22 is amended—

23 (1) in paragraph (6), by striking “or” at the  
24 end;

25 (2) in paragraph (7), by striking the period at  
26 the end and inserting “; or”; and

1           (3) by adding at the end the following:

2           “(8) an individual who lawfully resides in the  
3       United States (including territories and possessions  
4       of the United States) in accordance with a Compact  
5       of Free Association referred to in section  
6       402(b)(2)(G), but only with respect to the program  
7       defined in section 402(b)(3)(C) (relating to the Med-  
8       icaid program).”.

9       (c) SETTING FMAP AT 100 PERCENT.—The third  
10   sentence of section 1905(b) of the Social Security Act (42  
11   U.S.C. 1396d(b)) is amended by inserting before the pe-  
12   riod at the end the following: “and as medical assistance  
13   for individuals described in section 402(b)(2)(G) of the  
14   Personal Responsibility and Work Opportunity Reconcili-  
15   ation Act of 1996”.

16       (d) EFFECTIVE DATE.—The amendments made by  
17   this Act take effect on October 1, 2009, Act and apply  
18   to benefits and assistance provided on or after that date.

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